

Appl. No. 10/775,307
Examiner: THOMAS, TONIAE M, Art Unit 2822
In response to the Office Action dated March 27, 2006

Date: June 27, 2006
Attorney Docket No. 10113741

REMARKS

Responsive to the Office Action mailed on March 27, 2006 in the above-referenced application, Applicant respectfully requests amendment of the above-identified application in the manner identified above and that the patent be granted in view of the arguments presented. No new matter has been added by this amendment.

Present Status of Application

Claims 1-12 are pending. Claims 1-6 and 8-12 stand rejected under 35 U.S.C. 102(e) as being anticipated by Hsiao et al (US 2004/0094781 A1, hereinafter "Hsiao"). Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Hsiao in view of Forbes (US 5,853,587).

In this paper, claims 1 and 7-9 are amended to recite a conformable oxide layer in place of an insulating layer. Support for the amendments can be found at least in the original claims, page 6 and Fig. 2e of the application.

Reconsideration of this application is respectfully requested in light of the amendments and the remarks contained below.

Rejections Under 35 U.S.C. 102(e)

Claims 1-6 and 8-12 stand rejected under 35 U.S.C. 102(e) as being anticipated by Hsiao. To the extent that the grounds of the rejections may be applied to the claims now pending in this application, they are respectfully traversed.

Hsiao fails to teach or suggest a step of forming an oxide layer to store electric charges, as recited in claim 1.

To anticipate a claim, a reference must teach every element of the claim. In this regard, the Federal Circuit has held:

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"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 recites a method for fabricating a multi-bit vertical memory cell comprising the step of forming a conformable oxide layer over a sidewall of a trench and bit line insulating layers to locally store electric charge. Therefore, in the method of claim 1, the **oxide layer** stores electric charges.

To the contrary, Hsiao teaches that it is the **silicon nitride layer** 220 in the ONO layer 223 that is used for storing charges. See column 2, paragraph 0023 and FIG. 2e of Hsiao. Applicant therefore submits that the cited reference fails to teach or suggest the step of forming an oxide layer to locally store electric charge as recited in claim 1.

Accordingly, Applicant respectfully submits that the cited reference fails to disclose all the limitations of claim 1. It is therefore Applicant's belief that claim 1 is allowable over the cited reference. Insofar as claims 2-11 depend from claim 1, it is Applicant's belief that these claims are also allowable.

Rejections Under 35 U.S.C. 103(a)

Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Hsiao in view of Forbes. Applicant respectfully traverses the rejection for the reasons as follow.

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Disqualification of Prior Art

Under 35 U.S.C. 103(c), subject matter developed by another person which is prior art under subsections 35 U.S.C. 102(e), (f) and (g) shall not preclude patentability under 35 U.S.C. 103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an assignment to the same person.

Statement Under 35 U.S.C. 103(c)

Application No. 10/775,307 and Published Patent Application No. 2004/0094781 A1 to Hsiao et al were, at the time the invention of Application No. 10/775,307 was made, owned by Nanya Technology Corporation, Taoyuan, Taiwan.

As noted above, it is Applicant's belief that claim 7 is allowable by virtue of its dependency from claim 1. In addition, as Hsiao is disqualified as prior art to the invention under 35 U.S.C. 103, the rejection should be withdrawn.

Information Disclosure Statement

Applicant notes that an information disclosure statement was filed on May 9, 2006. Applicant respectfully requests that the Examiner indicate that he has considered the information disclosed the statement by returning a copy of the Form PTO-1449 submitted therewith with his initials or other appropriate mark beside each listed reference.

Conclusion

The Applicant believes that the application is now in condition for allowance and respectfully requests so.

Respectfully submitted,



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